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May 1, 2019

Hon. Steven I. Locke
United States Magistrate Judge
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722-4449

Re: *Ashraf Hussain, et al. v. Burton and Doyle of Great Neck LLC, et al.*
14 Civ. 05924 (SIL)

Dear Judge Locke,

As the Court is aware, we represent Plaintiffs in the above-referenced matter. This letter is submitted to request that the Court preclude any questioning at trial about Plaintiffs' involvement in any previous wage and hour lawsuits against other employers.

At the onset, we regret that this issue was overlooked and not made the subject of a *motion in limine* prior to the Court's deadline. Nonetheless, we believe that this line of questioning as to prior involvement in wage and hour lawsuits has no probative value, is not relevant to Plaintiffs' claims against Defendants, and would substantially prejudice Plaintiffs. Indeed, several courts have precluded questioning of prior lawsuits in the FLSA context. *See e.g., Exime v. E.W. Ventures, Inc.*, No. 08-CV-60099, 2009 WL 454278, at *2 (S.D. Fla. Feb. 11, 2009) ("Defendants seek to admit evidence of Plaintiff's prior FLSA lawsuit to support an equitable estoppel defense. As noted above, however, the doctrine of equitable estoppel is inapplicable to FLSA actions as a matter of law . . . As such, evidence of Plaintiff's prior lawsuit is both irrelevant and unduly prejudicial.) (citations omitted); *Henderson v. Peterson*, No. 4:07-CV-02838 (SBA) (PR), 2011 WL 2838169, at *5 (N.D. Cal. July 15, 2011) ("As a general matter, unless the prior lawsuits have been shown to be fraudulent, the probative value of evidence pertaining to a plaintiff's litigation history is substantially outweighed by the danger of jury bias."); *Oyarzo v. Tuolumne Fire Dist.*, No. 1:11-CV-01271-SAB, 2013 WL 5718882, at *8 (E.D. Cal. Oct. 18, 2013) (finding prior lawsuit not relevant to unpaid wages lawsuit, and involvement in prior lawsuit was found to be prejudicial). Defendants object to Plaintiffs' request to preclude this line of questioning.

We thank the Court for its consideration of this request.

Respectfully submitted,

s/ Louis Pechman

Louis Pechman

cc: Counsel for Defendants (via ECF)